

**Amendment and Response**

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

Page 10 of 24

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**Remarks**

The Office Action mailed 18 January 2007 has been received and reviewed. New claims 112 and 113 are presented, leaving claims 71-79, 81-83, 85-90, and 92-113 pending after entry of the new claims. Reconsideration and withdrawal of the rejections are respectfully requested as discussed below.

**New Claims 112 & 113**

New claims 112 and 113 are presented to provide Applicants will more comprehensive protection of the inventions disclosed in the present application.

Support for new claim 112 be found in the application as filed at, e.g., p. 2, lines 2-26; p. 4, lines 16-29; p. 6, lines 14-20; and Figures 1, 3, & 4.

Support for new claim 113 be found in the application as filed at, e.g., p. 2, lines 2-26; p. 4, lines 16-29; p. 5, line 23 to p. 6, line 2; p. 6, lines 14-20; Examples 1-9, 11 & 13; and Figures 1, 3, and 4.

**The 35 U.S.C. §103 Rejections**

The pending claims have been rejected under 35 U.S.C. §103(a) as being unpatentable. These rejections are respectfully traversed as discussed below. The basic requirements for a *prima facie* case of obviousness are set forth below.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. § 2143.

**Amendment and Response**

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

Page 11 of 24

---

**I. *Claims 71, 73-79, 81-82, 85, 94-95, 97-109, and 111 in view of Wessels et al.***

Claims 71, 73-79, 81-82, 85, 94-95, 97-109, and 111 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wessels et al. (U.S. Patent No. 5,669,120). Applicants submit that the requirements discussed above have not been met and, therefore, a *prima facie* case of obviousness has not been established with respect to claims 71, 73-79, 81-82, 85, 94-95, 97-109, and 111 in view of Wessels et al. because all of the features recited in the rejected claims are not disclosed or suggested by Wessels et al. As a result, Applicants respectfully request reconsideration of the obviousness rejection for the reasons discussed in more detail below.

**A. *Claim 85***

Although claim 85 is indicated as rejected for obviousness in view of Wessels et al., Applicants note that claim 85 depends directly from independent claim 83 which is not rejected for obviousness in view of Wessels et al.

As a result, Applicants respectfully submit that a *prima facie* case of obviousness has not been established for claim 85 because the requirements for a *prima facie* case of obviousness have not been met. For example, no suggestion or motivation for modifying Wessels et al. to reach the invention recited in independent claim 83 has been identified. Nor is it shown in connection with this rejection that Wessels et al. teaches or suggests all of the features recited in independent claim 83.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 85 over Wessels et al.

**B. *"The Polymer Of The Plurality Of Polymeric Regions Does Not Extend Through The Substrate To The Second Major Side Of The Substrate"***

Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 109 and 111 in view of Wessels et al. Each of independent claims 109 and 111 recites features that are not disclosed or suggested by Wessels et al. For example, each of

**Amendment and Response**

Page 12 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

independent claims 109 and 111 recites that "the polymer of the plurality of polymeric regions does not extend through the substrate to the second major side of the substrate."

As noted above, all of the features recited in the rejected claims must be taught or suggested by Wessels et al. to support a *prima facie* case of obviousness. The Office Action does not, however, directly address how Wessels et al. teaches or suggests a construction in which the polymer of the used to construct the hook regions on a first side of the substrate "does not extend through the substrate to the second major side of the substrate" as recited in each of independent claims 109 and 111.

Applicants submit that, in fact, Wessels et al. teaches away from a construction that includes polymeric regions in which "the polymer of the plurality of polymeric regions does not extend through the substrate to the second major side of the substrate." The polymer regions of Wessels et al. are actually formed by forcing molten polymer through the substrate and into cavities in which hooks are formed. As a result, the polymer contacts the "second major side of the substrate" before it is forced through the first major side and into the cavities. *See, e.g., Wessels et al.*, col. 3, line 63 to col. 4, line 48 as well as Figures 1 & 5. As a result, while the polymeric regions (stripes) include hooks on the first major side of the substrate, the polymer is also located on the second major side of the substrate – in direct conflict with the recitation found in each of independent claims 109 and 111 that "the polymer of the plurality of polymeric regions does not extend through the substrate to the second major side of the substrate."

Although this reason alone is sufficient for the requested reconsideration and withdrawal of the obviousness rejection of claims 109 and 111, Applicants also present the following reasons as to why a *prima facie* case of obviousness based on Wessels et al. has not been established for many of the claims subject to this rejection.

**Amendment and Response**

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

Page 13 of 24

---

**C. "The Plurality Of Discrete Polymeric Regions Are Located Only On The First Major Side Of The Substrate"**

Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 71, 73-79, 81-82, 94-95, 97-109, and 111 in view of Wessels et al. Each of independent claims 71, 94, 109, and 111 recites that the "the plurality of discrete polymeric regions are located only on the first major side of the substrate." As noted above, all of the features recited in the rejected claims must be taught or suggested by Wessels et al. to support a *prima facie* case of obviousness. The Office Action does not, however, establish that Wessels et al. teaches or suggests a construction in which "the plurality of discrete polymeric regions are located only on the first major side of the substrate" as recited in each of independent claims 71, 94, 109, and 111.

It appears that the Examiner may have intended to show that this feature is disclosed by Wessels et al. with the assertion that Wessels et al. teaches "a plurality of discrete polymeric regions fused to the first major side of the substrate 4a-S only (See Figs. 4B, 4D, 4F)." *Office Action*, p. 3 (January 18, 2007) (emphasis in original). That assertion is not, however, supported by a careful review of Wessels et al.

More specifically, although the polymer is depicted as extending through the substrate to form hook areas on the upper sides of the different constructions, the same polymeric regions extend through the substrate to the opposite (second) side of the substrate (although they are interconnected there). The "film layer 4a" relied on by the Examiner, is, in fact, merely the portion of the polymer that was not forced through the substrate ("porous pile core sheet S"). Support for this interpretation can be found in Wessels et al. at, e.g., col. 7, lines 24-28 ("As a result, the molten resin 4 remaining on the injection outlet of the injection die 1 and the expanded molten resin 4 are fused with the component material of the pile core sheet S to form the substrate sheet 4a having a predetermined thickness.").

Applicants submit that, in fact, Wessels et al. teaches away from a construction that includes polymeric regions in which "the plurality of discrete polymeric regions are located only

## Amendment and Response

Page 14 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

on the first major side of the substrate." As discussed above, the polymer regions of Wessels et al. are actually formed by forcing molten polymer through the substrate (pile core sheet S) and into cavities in which hooks are formed. In other words, the polymer contacts the second major side of the substrate before it is forced through the first major side and into the cavities. See, e.g., Wessels et al., col. 3, line 63 to col. 4, line 48 as well as Figures 1 & 5. As a result, while the polymeric regions (stripes) of Wessels et al. include hooks on the first major side of the substrate, the polymeric regions are also located on the second side of the substrate – in direct conflict with the recitation found in each of independent claims 71, 94, 109, and 111 that "the plurality of discrete polymeric regions are located only on the first major side of the substrate."

The above discussion provides another reason for the requested reconsideration and withdrawal of the obviousness rejection of claims 71, 73-79, 81-82, 94-95, 97-109, and 111 in view of Wessels et al.

*D. "Each Discrete Polymeric Region Of The Plurality Of Discrete Polymeric Regions Comprises A Discrete Patch Having A Perimeter That Is Entirely Bordered By The First Major Side Of The Substrate"*

Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 71, 73-79, 81-82, 94-95, 97-109, and 111 in view of Wessels et al. Each of independent claims 71, 94, 109, and 111 recites that the "each discrete polymeric region of the plurality of discrete polymeric regions comprises a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate." As noted above, however, all of the features recited in the rejected claims must be taught or suggested by Wessels et al. to support a *prima facie* case of obviousness. The Office Action does not, however, conclusively establish that Wessels et al. teaches or suggests a construction in which "each discrete polymeric region of the plurality of discrete polymeric regions comprises a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate."

## Amendment and Response

Page 15 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

Each of independent claims 71, 94, 109, and 111 recites, *inter alia*, that "each discrete polymeric region of the plurality of discrete polymeric regions comprises a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate." In contrast, Wessels et al. discloses only constructions in which polymeric regions on the first major side of the substrate are continuous, i.e., the continuous polymeric regions of Wessels et al. do not "have a perimeter that is entirely bordered by the first major side of the substrate" as recited in the rejected claims. *See, e.g.*, Wessels et al., Figures 3 and 6-8.

It is asserted in the Office Action that such a modification "is an obvious matter of design choice depending on particular use of a final product. Therefore, it would have been an obvious matter of design choice to make discrete regions in Wessels et al. of any desirable pattern of the web (including those of claimed invention) depending on the particular application of end product in the absence of a showing of criticality." Applicants respectfully disagree.

Wessels et al. teaches articles in which a surface fastener is formed by passing a substrate through an injection molding or extrusion apparatus to form continuous web that includes continuous fastener regions surrounded on one or two sides by the substrate. In other words, the fastener regions are typically provided in the form of continuous stripes that extend along the length of the web (*see, e.g.*, Wessels et al., Figures 3 & 6).

Although the assertion is made that the difference between "a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate" and the continuous stripes of polymer taught by Wessels et al. is a mere matter of design choice, no support or reasoning is provided for that conclusory assertion. Applicants respectfully submit, however, that a change in the patterns disclosed by Wessels et al. would be, e.g., a change in the spacing or width of the continuous stripes -- not a change to discrete patches as recited in the rejected claims.

A change from the continuous stripes of Wessels et al. to the discrete patches of the claimed invention is a change in the basic properties of the different polymeric regions. The basic nature of the differences in the proposed change is demonstrated by the fact that the entire

**Amendment and Response**

Page 16 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

disclosure of Wessels et al. is focused on how to form continuous stripes of polymer hooks – no part of the disclosure of Wessels et al. teaches or suggest that the apparatus and methods disclosed therein could be used to provide "discrete patches" as recited in each of independent claims 71, 94, 109, and 111.

As a result, Applicants respectfully submit that the discussion presented above provides yet another basis for the requested reconsideration and withdrawal of the obviousness rejection of claims 71, 73-79, 81-82, 94-95, 97-109, and 111 based on Wessels et al.

*E. The Substrate Comprises A Nonwoven Web*

Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 77 and 101 in view of Wessels et al. Claims 77, 101 each recite the use of a nonwoven web as the substrate. It is asserted in connection with the rejection of claims 77 and 101 that "Wessels et al. disclose a fastener comprising a *composite* substrate comprising a resin film layer 4a (claimed nonwoven web)." *Office Action*, p. 3 (January 18, 2007) (emphasis in original). Any assertion that Wessels et al. teach or suggest a substrate in the form of a nonwoven web as recited in claims 77 and 101 is improper and cannot be maintained.

First, Applicants respectfully submit that the layer 4a is not a film layer that is provided as a part of the substrate. The "film layer 4a" relied on by the Examiner, is, in fact, merely the portion of the polymer that was not forced through the substrate ("porous pile core sheet S"). Support for this interpretation can be found in Wessels et al. at, e.g., col. 7, lines 24-28 ("As a result, the molten resin 4 remaining on the injection outlet of the injection die 1 and the expanded molten resin 4 are fused with the component material of the pile core sheet S to form the substrate sheet 4a having a predetermined thickness.").

Second, as used in the art, the term "nonwoven web" has a particular meaning in that a nonwoven web is fibrous, but not knitted or woven. To assert that a film is a "nonwoven web" finds no support in the art and is an unreasonably broad interpretation of the term. As support for Applicants' position, refer to, e.g., columns 6-9 of U.S. Patent no. 5,547,531 to Allen et al.

**Amendment and Response**

Page 17 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

(cited in another rejection discussed below) for a detailed discussion regarding "nonwoven webs" which established that a film is not a "nonwoven" web to one of ordinary skill in the art

As a result, Applicants respectfully submit that the discussion presented above provides yet another basis for the requested reconsideration and withdrawal of the obviousness rejection of claims 77 and 101 based on Wessels et al.

**II. Claims 72, 83, 85-90, 92-93, 96, and 110 over Wessels et al. in view of Allen et al.**

Claims 72, 83, 85-90, 92-93, 96, and 110 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wessels et al. (U.S. Patent No. 5,669,120) in view of Allen et al. (U.S. Patent No. 5,547,531). Applicants respectfully disagree and request reconsideration and withdrawal of this rejection.

**A. Claims 72 and 96**

Applicants presented a variety of reasons as to why the inventions recited in each of independent claims 71 and 94 are not obvious in view of Wessels et al. Claims 72 and 96 depend, respectively, from independent claims 71 and 94. No assertions have been made in connection with this rejection of claims 72 and 96 that Allen et al. addresses shortcomings of Wessels et al. with respect to independent claims 71 and 94.

As a result, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 72 and 96 based on Wessels et al. in view of Allen et al.

**B. "The Plurality Of Discrete Polymeric Regions Are Located Only On The First Major Side Of The Substrate"**

Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 83, 85-90, 92-93, and 110 and over Wessels et al. in view of Allen et al. Each of independent claims 83 and 110 recites that the "the plurality of discrete polymeric regions are located only on the first major side of the substrate."



**Amendment and Response**

Page 18 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

As noted above, all of the features recited in the rejected claims must be taught or suggested by the cited references to support a *prima facie* case of obviousness. The Office Action does not, however, conclusively establish that the cited references teach or suggest a construction in which "the plurality of discrete polymeric regions are located only on the first major side of the substrate" as recited in each of independent claims 83 and 110.

It appears that the Examiner may have intended to show that this feature is disclosed by Wessels et al. with the assertion that Wessels et al. teaches "a plurality of discrete polymeric regions fused to the first major side of the substrate 4a-S only (See Figs. 4B, 4D, 4F)." *Office Action*, p. 3 (January 18, 2007) (emphasis in original). That assertion is not, however, supported by a careful review of Wessels et al.

More specifically, although the polymer is depicted as extending through the substrate to form hook areas on the upper sides of the different constructions, the same polymeric regions extend through the substrate to the opposite (second) side of the substrate (although they are interconnected there). The "film layer 4a" relied on by the Examiner, is, in fact, merely the portion of the polymer that was not forced through the substrate ("porous pile core sheet S"). Support for this interpretation can be found in Wessels et al. at, e.g., col. 7, lines 24-28 ("As a result, the molten resin 4 remaining on the injection outlet of the injection die 1 and the expanded molten resin 4 are fused with the component material of the pile core sheet S to form the substrate sheet 4a having a predetermined thickness.").

Applicants submit that, in fact, Wessels et al. teaches away from a construction that includes polymeric regions in which "the plurality of discrete polymeric regions are located only on the first major side of the substrate." As discussed above, the polymer regions of Wessels et al. are actually formed by forcing molten polymer through the substrate (pile core sheet S) and into cavities in which hooks are formed. In other words, the polymer contacts the second major side of the substrate before it is forced through the first major side and into the cavities. *See, e.g., Wessels et al.*, col. 3, line 63 to col. 4, line 48 as well as Figures 1 & 5. As a result, while the polymeric regions (stripes) include hooks on the first major side of the substrate, the

**Amendment and Response**

Page 19 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

polymeric regions are also located on the second side of the substrate – in direct conflict with the recitation found in each of independent claims 83 and 110 that "the plurality of discrete polymeric regions are located only on the first major side of the substrate."

Moreover, Allen et al. does not address these shortcomings of Wessels et al. (either alone or in combination with Wessels et al.).

For at least the reasons presented above, Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 83, 85-90, 92-93, and 110 over Wessels et al. in view of Allen et al.

C. *"Each Discrete Polymeric Region Of The Plurality Of Discrete Polymeric Regions Comprises A Discrete Patch Having A Perimeter That Is Entirely Bordered By The First Major Side Of The Substrate"*

Applicants also respectfully request reconsideration and withdrawal of the obviousness rejection of claims 83, 85-90, and 92-93 over Wessels et al. in view of Allen et al. because independent claim 83 recites that the "each discrete polymeric region of the plurality of discrete polymeric regions comprises a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate."

As noted above, all of the features recited in the rejected claims must be taught or suggested by the cited references to support a *prima facie* case of obviousness. The Office Action does not, however, conclusively establish that the cited references teach or suggest a construction in which "each discrete polymeric region of the plurality of discrete polymeric regions comprises a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate."

Independent claim 83 recites, *inter alia*, that "each discrete polymeric region of the plurality of discrete polymeric regions comprises a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate." In contrast, Wessels et al. discloses only constructions in which polymeric regions on the first major side of the substrate are

**Amendment and Response**

Page 20 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

continuous, i.e., the continuous polymeric regions of Wessels et al. do not "have a perimeter that is entirely bordered by the first major side of the substrate" as recited in the rejected claims. *See, e.g., Wessels et al., Figures 3 and 6-8.* Allen et al. does not disclose or suggest any polymeric regions whatsoever.

It is asserted in the Office Action that such a modification of Wessels et al. "is an obvious matter of design choice depending on particular use of a final product. Therefore, it would have been an obvious matter of design choice to make discrete regions in Wessels et al. of any desirable pattern of the web (including those of claimed invention) depending on the particular application of end product in the absence of a showing of criticality." Applicants respectfully disagree.

Wessels et al. teaches articles in which a surface fastener is formed by passing a substrate through an injection molding or extrusion apparatus to form continuous web that includes continuous fastener regions surrounded on one or two sides by the substrate. In other words, the fastener regions are typically provided in the form of continuous stripes that extend along the length of the web (*see, e.g., Wessels et al., Figures 3 & 6*).

Although the assertion is made that the difference between "a discrete patch having a perimeter that is entirely bordered by the first major side of the substrate" and the continuous stripes of polymer taught by Wessels et al. is a mere matter of design choice, no support or reasoning is provided for that conclusory assertion. Applicants respectfully submit, however, that a change in the patterns disclosed by Wessels et al. would be, e.g., a change in the spacing or width of the continuous stripes -- not a change to discrete patches as recited in the rejected claims.

A change from the continuous stripes of Wessels et al. to the discrete patches of the claimed invention is a change in the basic properties of the different polymeric regions. The basic nature of the differences in the proposed change is demonstrated by the fact that the entire disclosure of Wessels et al. is focused on how to form continuous stripes of polymer hooks -- no part of the disclosure of Wessels et al. teaches or suggest that the apparatus and methods

**Amendment and Response**

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

Page 21 of 24

disclosed therein could be used to provide "discrete patches" as recited in each of independent claim 83.

Moreover, Allen et al. does not address these shortcomings of Wessels et al. (either alone or in combination with Wessels et al.).

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 83, 85-90, and 92-93 based on Wessels et al. in view of Allen et al.

*D. "The Polymer Of The Plurality Of Polymeric Regions Does Not Extend Through The Substrate To The Second Major Side Of The Substrate"*

Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of independent claim 110 over Wessels et al. in view of Allen et al. because claim 110 recites that "the polymer of the plurality of polymeric regions does not extend through the substrate to the second major side of the substrate."

As noted above, all of the features recited in the rejected claims must be taught or suggested by the cited references to support a *prima facie* case of obviousness. The Office Action does not, however, directly address how the cited references teach or suggest a construction in which the polymer of the used to construct the hook regions on a first side of the substrate "does not extend through the substrate to the second major side of the substrate" as recited in claim 110.

Applicants submit that, in fact, Wessels et al. teaches away from a construction that includes polymeric regions in which "the polymer of the plurality of polymeric regions does not extend through the substrate to the second major side of the substrate." The polymer regions of Wessels et al. are actually formed by forcing molten polymer through the substrate and into cavities in which hooks are formed. As a result, the polymer contacts the "second major side of the substrate" before it is forced through the first major side and into the cavities. *See, e.g., Wessels et al.*, col. 3, line 63 to col. 4, line 48 as well as Figures 1 & 5. As a result, while the

**Amendment and Response**

Page 22 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

polymeric regions (stripes) include hooks on the first major side of the substrate, the polymer is also located on the second major side of the substrate – in direct conflict with the recitation found in claim 110 that "the polymer of the plurality of polymeric regions does not extend through the substrate to the second major side of the substrate."

Moreover, Allen et al. does not address these shortcomings of Wessels et al. (either alone or in combination with Wessels et al.).

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claim 110 based on Wessels et al. in view of Allen et al.

**III. *Claims 85 and 107 over Wessels et al. in view of Murasaki***

Claims 85 and 107 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wessels et al. (U.S. Patent No. 5,699,120) in view of Murasaki (U.S. Patent No. 5,643,651).

**A. *Claim 85***

Applicants have presented a variety of reasons as to why independent claim 83 is not obvious over Wessels et al. in view of Allen et al. Claim 85 depends from independent claim 83. No assertions have been made in connection with this rejection of claim 85 that Murasaki (with or without Allen et al.) addresses the shortcomings of Wessels et al. with respect to independent claim 83.

As a result, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claim 85 based on Wessels et al. in view of Murasaki.

**B. *Claim 107***

Applicants have presented a variety of reasons as to why independent claim 94 is not obvious over Wessels et al. in view of Allen et al. Claim 107 ultimately depends from independent claim 94. No assertions have been made in connection with this rejection of claim

**Amendment and Response**

Page 23 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

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107 that Murasaki (with or without Allen et al.) addresses the shortcomings of Wessels et al. with respect to independent claim 94.

As a result, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claim 107 based on Wessels et al. in view of Murasaki.

For at least the reasons presented above, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 85 and 107 over Wessels et al. in view of Murasaki.

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**Amendment and Response**

Page 24 of 24

Serial No.: 09/822,651

Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

**Summary**

It is respectfully submitted that the pending claims 71-79, 81-83, 85-90, and 92-111 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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18 JUNE 2007

By:

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**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 18th day of June, 2007, at 3:08 p.m. (Central Time).

By:

Name:

[Signature]  
Rachel Gaylinde